

K&L|GATES

Kirkpatrick & Lockhart Preston Gates Ellis LLP
1601 K Street NW
Washington, DC 20006-1600
t 202.778.9000 www.klgates.com

January 28, 2008

Richard A. Kirby
202.661.3730
richard.kirby@klgates.com

VIA HAND DELIVERY AND ELECTRONIC FILING

The Honorable Colleen McMahon
United States District Judge
Daniel Patrick Moynihan Courthouse
500 Pearl Street, Room 640
New York, NY 10007
Fax: (212) 805-6326

Re: *United States v. Marino* (05-1036)
United States v. Israel (05-1039)
United States v. Marquez (06-1138)

Dear Judge McMahon:

We represent the Official Creditors Committee of the Bayou Family of Companies (the "Committee") and write on behalf of the Committee to support the position of the United States Attorney in his letter of January 25, 2008 regarding restitution in the above-referenced cases. The undersigned individual Committee members and ex officio members join this letter in their individual capacities.

The United States Attorney proposes that the Bayou Victims' Restitution Fund be distributed in tranches, with an appropriate reserve established to protect the interests of adversary defendants in the Bayou bankruptcy with possible future claims. The Committee strongly urges the Court to agree to the proposed mechanism for distribution of Bayou's forfeited assets and not to delay any partial distributions to current victims pending resolution of all adversary proceedings.

If the Court establishes a reserve to protect the contingent interests of the Bayou adversary defendants, it is wholly unnecessary to delay a partial distribution from the Bayou Victims' Restitution Fund to Bayou's current identified victims. The adversary defendants will be more than fully protected by the reserve. Indeed, the adversary defendants' petitions acknowledge that the establishment of a reserve is entirely sufficient to protect their interests and, therefore, a delay of distributions to current victims pending resolution of their proceedings would be superfluous.

The current draft of the proposed restitution order received from the United States Attorney's office lists a total of \$309 million in victim claims. In addition, the adversary defendants

K&L|GATES

The Honorable Colleen McMahon
 January 28, 2008
 Page 2

have contingent claims which we estimate at \$85 million. Thus, any reserve amount would be established with the following formula:

$$\text{Reserve} = \text{Bayou Restitution Fund Total} \times \frac{\text{Total contingent victim claims}}{\left[\text{Total non-contingent victim claims} + \text{Total contingent victim claims} \right]}$$

For example: assume that: (1) the amount of contingent victim claims is \$85 million, (2) the amount to be disbursed from the Bayou Victims' Restitution Fund is \$106 million, and (3) the amount of the non-contingent victim claims is \$309 million, then the amount of a reserve would be \$22.87 million [$\$106\text{m} \times [\$85\text{m}/\$394\text{m}]$]. Thus the balance of \$83.13 million could be distributed to current victims while fully protecting the rights of the contingent victim claimants.

By establishing a reserve from the Bayou Victims' Restitution Fund that fully covers the maximum possible contingent claims of the adversary defendants, the United States Attorney's proposal to distribute the restitution funds in tranches will ensure that the adversary defendants are not prejudiced by any partial distribution to Bayou's identified current victims.

We request that the Court construe this letter as a motion pursuant to 18 U.S.C. § 3771(d)(3). We also request the opportunity to be heard regarding these matters at Marino's sentencing or in a separate hearing as established by the Court. Bayou's investor-victims have waited two and one-half years for the return of the money that Bayou's principals defrauded from them. Further delay of the initial distribution of the Bayou Victims' Restitution Fund will only cause Bayou's victims needless additional financial hardship.

Very truly yours,

KIRKPATRICK & LOCKHART PRESTON GATES ELLIS LLP

By


 Richard A. Kirby

cc: See attached service list

1301 Fifth Ave., 40th Floor
Seattle, Washington 98101

T | 206.774.6000
F | 206.774.6010

153 East 53rd St., 59th Floor
New York, New York 10022

T | 212.310.5555
F | 212.310.5545

www.silvercreekcapital.com

January 28, 2008

The Honorable Colleen McMahon
United States District Judge
Daniel Patrick Moynihan Courthouse
500 Pearl Street, Room 640
New York, NY 10007

Re: *United States v. Marino* (05-1036)
United States v. Israel (05-1039)
United States v. Marquez (06-1138)

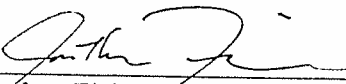
Dear Judge McMahon:

I, Jonathan Fisher, on behalf of Silver Creek Long/Short Holdings, L.L.C., a Bayou victim with a recognized claim in the referenced cases, join in the letter submitted by K&L Gates to the Court dated January 28, 2008 on behalf of the Official Bayou Creditors' Committee.

I believe any further delay of distribution of the Bayou Victims' Restitution Fund would exacerbate the financial distress and harm already caused to victims of the Bayou fraud.

Sincerely yours,

Silver Creek Capital Management LLC,
Managing Member of Silver Creek Long/Short Holdings, L.L.C.



Jonathan Fisher
Secretary and General Counsel



Louis A. Isakoff
Vice President and General Counsel

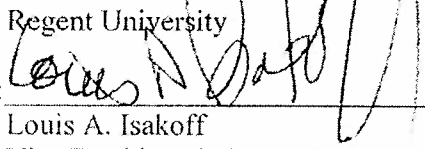
The Honorable Colleen McMahon
United States District Judge
Daniel Patrick Moynihan Courthouse
500 Pearl Street, Room 640
New York, NY 10007

Re: *United States v. Marino (05-1036)*
United States v. Israel (05-1039)
United States v. Marquez (06-1138)

Dear Judge McMahon:

I, Louis A. Isakoff, on behalf of Regent University, a Bayou victim with a recognized claim in the referenced cases, join in the letter submitted by K&L Gates to the Court dated January 28, 2008 on behalf of the Official Bayou Creditors' Committee. I believe any further delay of distribution of the Bayou Victims' Restitution Fund would exacerbate the financial distress and harm already caused to victims of the Bayou fraud.

Date: January 28, 2008

Regent University
By: 
Louis A. Isakoff
Vice President & General Counsel



The Honorable Colleen McMahon
United States District Judge
Daniel Patrick Moynihan Courthouse
500 Pearl Street, Room 640
New York, NY 10007

Re: *United States v. Marino* (05-1036)
United States v. Israel (05-1039)
United States v. Marquez (06-1138)

Dear Judge McMahon:

I, Laurel T. Koen, on behalf of Leonard P. Pappas, L.P., a Bayou
victim with a recognized claim in the referenced cases, join in the letter submitted by K&L Gates
to the Court dated January 28, 2008 on behalf of the Official Bayou Creditors' Committee. I
believe any further delay of distribution of the Bayou Victims' Restitution Fund would
exacerbate the financial distress and harm already caused to victims of the Bayou fraud.

Date: January 28, 2008

Laurel T. Koen
6800 CAPITAL, LLC

The Honorable Colleen McMahon
United States District Judge
Daniel Patrick Moynihan Courthouse
500 Pearl Street, Room 640
New York, NY 10007

Re: *United States v. Marino* (05-1036)
United States v. Israel (05-1039)
United States v. Marquez (06-1138)

Dear Judge McMahon:

I Robert T. Keck, on behalf of Bayou Fund, L.P., a Bayou
victim with a recognized claim in the referenced cases, join in the letter submitted by K&L Gates
to the Court dated January 28, 2008 on behalf of the Official Bayou Creditors' Committee. I
believe any further delay of distribution of the Bayou Victims' Restitution Fund would
exacerbate the financial distress and harm already caused to victims of the Bayou fraud.

Date: January 28, 2008

Robert T. Keck
6800 CAPITAL, LLC

The Honorable Colleen McMahon
United States District Judge
Daniel Patrick Moynihan Courthouse
500 Pearl Street, Room 640
New York, NY 10007

Re: *United States v. Marino* (05-1036)
United States v. Israel (05-1039)
United States v. Marquez (06-1138)

Dear Judge McMahon:

I John H. Williams, on behalf of John H. Williams, a Bayou victim with a recognized claim in the referenced cases, join in the letter submitted by K&L Gates to the Court dated January 28, 2008 on behalf of the Official Bayou Creditors' Committee. I believe any further delay of distribution of the Bayou Victims' Restitution Fund would exacerbate the financial distress and harm already caused to victims of the Bayou fraud.

Date: January 28, 2008

John H. Williams

BAKER & DANIELS LLP

EST. 1863

600 E. 96th Street, Suite 600 • Indianapolis, Indiana 46240
Tel. 317.569.9600 • Fax 317.569.4800
www.bakerdaniels.com

JAY JAFFE
Attorney at Law
Direct 317.569.4687
jay.jaffe@bakerd.com

INDIANA
WASHINGTON, D.C.
CHINA

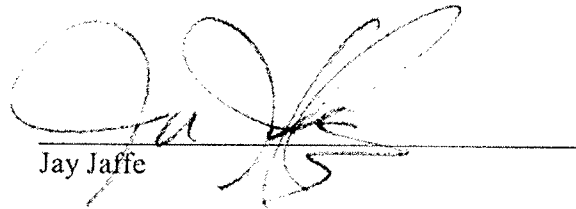
The Honorable Colleen McMahon
United States District Judge
Daniel Patrick Moynihan Courthouse
500 Pearl Street, Room 640
New York, NY 10007

Re: *United States v. Marino* (05-1036)
United States v. Israel (05-1039)
United States v. Marquez (06-1138)

Dear Judge McMahon:

The undersigned, as attorney for and on behalf of DePauw University, a Bayou victim with a recognized claim in the amount of \$3,250,000 in the referenced cases, joins in the letter submitted by K&L Gates to the Court dated January 28, 2008 on behalf of the Official Bayou Creditors' Committee. Any further delay of distribution of the Bayou Victims' Restitution Fund would exacerbate the financial distress and harm already caused to DePauw University and other victims of the Bayou fraud.

Dated: January 28, 2008


Jay Jaffe

The Honorable Colleen McMahon
United States District Judge
Daniel Patrick Moynihan Courthouse
500 Pearl Street, Room 640
New York, NY 10007

Re: *United States v. Marino* (05-1036)
United States v. Israel (05-1039)
United States v. Marquez (06-1138)

Dear Judge McMahon:

I Joe McNough, on behalf of Woodland Family Partners, a Bayou victim with a recognized claim in the referenced cases, join in the letter submitted by K&L Gates to the Court dated January 28, 2008 on behalf of the Official Bayou Creditors' Committee. I believe any further delay of distribution of the Bayou Victims' Restitution Fund would exacerbate the financial distress and harm already caused to victims of the Bayou fraud.

Date: January 28, 2008

Joe McNough / SPL

The Honorable Colleen McMahon
United States District Judge
Daniel Patrick Moynihan Courthouse
500 Pearl Street, Room 640
New York, NY 10007

Re: *United States v. Marino* (05-1036)
United States v. Israel (05-1039)
United States v. Marquez (06-1138)

Dear Judge McMahon:

I Joe McDonough, on behalf of Byron Foster Trust, a Bayou victim with a recognized claim in the referenced cases, join in the letter submitted by K&L Gates to the Court dated January 28, 2008 on behalf of the Official Bayou Creditors' Committee. I believe any further delay of distribution of the Bayou Victims' Restitution Fund would exacerbate the financial distress and harm already caused to victims of the Bayou fraud.

Date: January 28, 2008

Joe McDonough / SPL

The Honorable Colleen McMahon
United States District Judge
Daniel Patrick Moynihan Courthouse
500 Pearl Street, Room 640
New York, NY 10007

Re: *United States v. Marino* (05-1036)
United States v. Israel (05-1039)
United States v. Marquez (06-1138)

Dear Judge McMahon:

I Joe McFonough, on behalf of Eye & Ear Foundation, a Bayou victim with a recognized claim in the referenced cases, join in the letter submitted by K&L Gates to the Court dated January 28, 2008 on behalf of the Official Bayou Creditors' Committee. I believe any further delay of distribution of the Bayou Victims' Restitution Fund would exacerbate the financial distress and harm already caused to victims of the Bayou fraud.

Date: January 28, 2008

Joe McFonough / SPL

The Honorable Colleen McMahon
United States District Judge
Daniel Patrick Moynihan Courthouse
500 Pearl Street, Room 640
New York, NY 10007

Re: *United States v. Marino* (05-1036)
United States v. Israel (05-1039)
United States v. Marquez (06-1138)

Dear Judge McMahon:

I Joe McMonagh, on behalf of Beckwith Investment, Ltd., a Bayou victim with a recognized claim in the referenced cases, join in the letter submitted by K&L Gates to the Court dated January 28, 2008 on behalf of the Official Bayou Creditors' Committee. I believe any further delay of distribution of the Bayou Victims' Restitution Fund would exacerbate the financial distress and harm already caused to victims of the Bayou fraud.

Date: January 28, 2008

Joe McMonagh / SPL

The Honorable Colleen McMahon
United States District Judge
Daniel Patrick Moynihan Courthouse
500 Pearl Street, Room 640
New York, NY 10007

Re: *United States v. Marino* (05-1036)
United States v. Israel (05-1039)
United States v. Marquez (06-1138)

Dear Judge McMahon:

I Joe McDonough, on behalf of Weiner Investments LP, a Bayou victim with a recognized claim in the referenced cases, join in the letter submitted by K&L Gates to the Court dated January 28, 2008 on behalf of the Official Bayou Creditors' Committee. I believe any further delay of distribution of the Bayou Victims' Restitution Fund would exacerbate the financial distress and harm already caused to victims of the Bayou fraud.

Date: January 28, 2008

Joe McDonough / SPL

The Honorable Colleen McMahon
United States District Judge
Daniel Patrick Moynihan Courthouse
500 Pearl Street, Room 640
New York, NY 10007

Re: *United States v. Marino* (05-1036)
United States v. Israel (05-1039)
United States v. Marquez (06-1138)

Dear Judge McMahon:

I Joe McDonough, on behalf of Longboat Capital Partners, a Bayou victim with a recognized claim in the referenced cases, join in the letter submitted by K&L Gates to the Court dated January 28, 2008 on behalf of the Official Bayou Creditors' Committee. I believe any further delay of distribution of the Bayou Victims' Restitution Fund would exacerbate the financial distress and harm already caused to victims of the Bayou fraud.

Date: January 28, 2008

Joe McDonough / SPL

The Honorable Colleen McMahon
United States District Judge
Daniel Patrick Moynihan Courthouse
500 Pearl Street, Room 640
New York, NY 10007

Re: *United States v. Marino* (05-1036)
United States v. Israel (05-1039)
United States v. Marquez (06-1138)

Dear Judge McMahon:

I Joe McDonough, on behalf of Muse Group, a Bayou
victim with a recognized claim in the referenced cases, join in the letter submitted by K&L Gates
to the Court dated January 28, 2008 on behalf of the Official Bayou Creditors' Committee. I
believe any further delay of distribution of the Bayou Victims' Restitution Fund would
exacerbate the financial distress and harm already caused to victims of the Bayou fraud.

Date: January 28, 2008

Joe McDonough / SPL

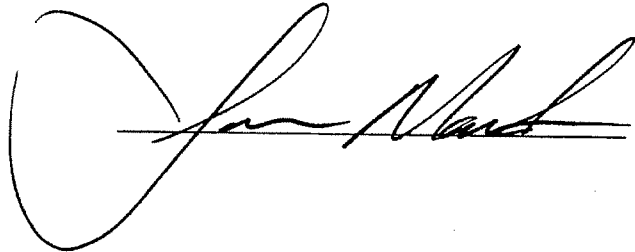
The Honorable Colleen McMahon
United States District Judge
Daniel Patrick Moynihan Courthouse
500 Pearl Street, Room 640
New York, NY 10007

Re: *United States v. Marino* (05-1036)
United States v. Israel (05-1039)
United States v. Marquez (06-1138)

Dear Judge McMahon:

I James A. Martin, on behalf of Phoenixian Trading Partners LP, a Bayou victim with a recognized claim in the referenced cases, join in the letter submitted by K&L Gates to the Court dated January 28, 2008 on behalf of the Official Bayou Creditors' Committee. I believe any further delay of distribution of the Bayou Victims' Restitution Fund would exacerbate the financial distress and harm already caused to victims of the Bayou fraud.

Date: January 28, 2008

A handwritten signature in black ink, appearing to read "James A. Martin", written over a horizontal line.

SERVICE LIST

Counsel	Client	Email
Andrew Bruce Bowman Law Offices of Andrew B. Bowman 1804 Post Road East Westport, CT 06880	Daniel Marino	
Lawrence S. Bader Morvillo, Abramowitz, Grand, Iason, Anello & Bohrer, P.C. 565 Fifth Avenue New York, New York 10017 (T) 212.856.9600 (F) 212.856.9494	Samuel Israel III	lbader@maglaw.com
Bradley Drew Simon Simon & Partners LLP 30 Rockefeller Plaza, 42nd Floor, New York, NY 10112 Phone (212) 332-8900 Fax (212) 332-8909	James G. Marquez	bradsimon@simonlawyers.com
Stanley A. Twardy Day Pitney LLP One Canterbury Green 201 Broad Street Stamford, CT 06901	James G. Marquez	satwardy@daypitney.com
Carole Neville 1221 Avenue of the Americas New York, NY 10020-1089 Phone: 212.768.6700	Sonnenschein Investors	cneville@sonnenschein.com

Counsel	Client	Email
Fax: 212.768.6800		
Stuart Evan Kahan Oxman Tullis Kirkpatrick Whyatt & Geiger LLP 120 Bloomingdale Road White Plains, NY 10605 Phone: (914)422-3900 Fax: (914)422-3636	Busey Bank	
Joseph Allen Jaeckle Fleischmann & Mugel, LLP 12 Fountain Plaza Buffalo, NY 14202-2292 P: 716.843.3802 F: 716.856.0432	Christian Brothers High School Endowment	jallen@jaeckle.com
Michael L. Cook Schulte Roth & Zabel LLP 919 Third Avenue New York, NY 10022 (212) 756-2150 (212) 593-5955 fax	Sterling Stamos Security Fund, LP, et al.	michael.cook@srz.com
Heidi J. Sorvino Katten Muchin Rosenman LLP 575 Madison Avenue New York, New York 10022-2585	Peter Hajje	heidi.sorvino@kattenlaw.com

Counsel	Client	Email
Richard B. Feldman Rosenberg Feldman Smith, LLP 551 Fifth Avenue, 24th Floor New York, New York 10176	Freestone Low Volatility Partners, LP	
P. Gregory Schwed Loeb & Loeb LLP 345 Park Avenue New York, NY 10154 212.407.4000 212.407.4990	Highgate Partners, LP	gschwed@loeb.com
M. William Munr Seward & Kissel LLP One Battery Park Plaza New York, New York 10004 Tel: (212) 574-1587 Fax: (212) 480-8421	Mary Jane Pidgeon Sledge	munno@sewkis.com
John J.D. McFerrin-Clancy 1251 Avenue of the Americas New York, New York 10020 Tel: 646.414.6914 Fax: 973.422.6897	Trial Ridge Flatiron Fund, LP	jmcFerrin-clancy@lowenstein.com
Paul D. Sinclair Shughart Thomson & Kilroy PC Twelve Wyandotte Plaza 120 W. 12th Street Kansas City, MO 64105	Trail Ridge Flatiron Fund, LP	psinclair@stklaw.com

Counsel	Client	Email
Merrill G. Davidoff Berger & Montague, P.C. 1622 Locust Street Philadelphia, PA 19103 Telephone: 1-800-424-6690 Facsimile: 215-875-4604	Bayou Class Claimants	mdavidoff@bm.net
Elise S. Frejka Dechert LLP 30 Rockefeller Plaza New York, NY 10112-2200	Bayou Debtors	elise.frejka@dechert.com
Sharon Levin Assistant U.S. Attorney Southern District of New York		Sharon.Levin@usdoj.gov
Margery Feinzig Assistant US Attorney Southern District of New York		Margery.Feinzig@usdoj.gov